

SUPPLEMENT NO. 35
VOLUMES I AND II
September 2008

CODE
of
SHELBY COUNTY, TENNESSEE

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 359, enacted April 28, 2008.

See the Code Comparative Table—Ordinances for further information.

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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(This checklist will be updated with the
printing of each Supplement)

From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

The following listing is included in this Code as a ready guide for the user to determine whether the Code volume properly reflects the latest printing of each page.

In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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Article III. County Attorney; Court of General Sessions; Enforcement of Ordinances

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- Sec. 2-92. Representation in civil litigation.
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that one full term has passed since his last service in that seat. An individual whose time of service on one board, authority or commission has reached the limit of this section, may be appointed to a different board, authority, or commission. In each such case, the term limit qualification shall begin anew.

(f) Any member of a board, authority or commission may be reappointed beyond the terms of this section by a two-thirds vote of the Board of County Commissioners.

(Joint Ord. No. 343, 8-27-07)

Sec. 2-12. Sire Document Management System.

(1) Effective upon completion of training in the use of the Sire Document Management System by appropriate personnel of each board, commission and authority (hereinafter an "entity") established in whole or in part by Shelby County Government, such entity shall immediately begin use of the Sire Document Management System, with the result that all resolutions, documents, motions or other items including all supporting information filed with, or created by, such entity to be placed on any agenda or considered or discussed in any manner at any meeting which is subject to the Open Meetings Act, together with all agendas, minutes, transcripts and other similar items filed with or created by such entity shall be available in electronic form in real time (as hereinafter defined) on the internet through the website of Shelby County Government.

(2) For the purposes of this section, the term "real time" means that any such document shall be entered in the Sire Document Management System and made available on the website of Shelby County Government by such entity upon the earlier to occur of:

- (a) The date such document was filed with or delivered to the entity; or
- (b) The date that the entity, or anyone acting on behalf of the entity, created the document.

(3) The documents required to be made available on the website of Shelby County Government shall be available to the public on such website for a period of at least ten years from the date of first posting.

(Ord. No. 358, §§ 1—3, 4-14-08)

Secs. 2-13—2-35. Reserved.

ARTICLE II. DIVISION OF ADMINISTRATION AND FINANCE*

DIVISION 1. GENERALLY

Sec. 2-36. Functions of division.

The division of administration and finance includes, but is not limited to, the function of the buildings manager, Centrex system,

***NOTES:**

1. Sec. 2-37 amended to provide for appointment of comptroller by Ch. 37, Pvt. 1979.

2. Sec. 2-36: Divorce referee removed by Resolution No. 26, January 31, 1977. Public defender removed by Resolution No. 26, January 31, 1977. Airport authority and convention board added by Resolution No. 26, January 31, 1977. Board of adjustment and office of planning and development added by Resolution No. 13, December 15, 1975.

3. Sec. 2-37(b) was returned to the Restructure Act by opinion of the court of appeals dated July 25, 1978 in the case of Shelby County v. Leonard Ray Blanton. However, the paragraph is not applicable to the various fee officers of Shelby County. (Second and third sentences were discussed in particular by the appellate court.) The appeals decision also discussed the first sentence and upheld its constitutionality stating, "The signing of warrants is an administrative duty which may be transferred to the county mayor and director (administrator) of finances." This paragraph had been declared unconstitutional by chancellor Robert A. Hoffmann by opinion dated November 23, 1977.

4. Sec. 2-37(c), Sec. (11) See sec. 3.01 of the county charter.

5. Sec. 2-37(d)—(f) is restored by decision of the court of appeals in the case of Shelby County v. Leonard Ray Blanton dated July 25, 1978. However, it was held that this provision is not applicable to the fee officers of Shelby County. (This

APPROVED RATE	ADOPTED IN	EFFECTIVE RATE	APPLICABLE TO
\$29.65	2003	\$29.65	2002 Emissions
\$29.65	2004	\$26.68	2003 Emissions
\$30.63	2005	\$27.57	2004 Emissions
\$31.67	2006	\$28.50	2005 Emissions
\$30.00	2007	\$27.00	2006 Emissions

These rates have been amended by: Ord. No. 359, adopted Apr. 28, 2008.

Sec. 14.5-29. Maximum amount subject to emissions fee.

A fee shall be collected from each stationary air pollution source which emits more than one ton of actual emissions annually of a regulated pollutant as defined herein, called the "emissions fee", which shall equal the amount determined by the requirements set forth in Appendix A of this article.
(Ord. No. 102, § 4, 3-30-92; Ord. No. 265, § 12, 9-9-02)

Sec. 14.5-30. Reporting.

Except as provided below, each permitted stationary air pollution source must submit to the department an annual report that establishes the amount of actual emissions of each regulated pollutant, including carbon monoxide, for that source. This report will be for the emissions of that source that occurred during the calendar year starting in 1991 and continuing for succeeding years thereafter. The department may request, and the air pollution source shall provide, additional information on the emissions data submitted when the department determines, the data previously provided is inadequate to establish the actual type or amount of emissions from the source subject to fees. Not including air toxics as they are defined in the Clean Air Act Amendments of 1990 and the amendments thereto, if the source emits fewer than 50 tons of actual emissions of pollutant during a year, it may at its option use as the actual emissions figure its permitted pollutant levels where available and known. If the source is a "major source" under the air toxics provisions of the Clean Air Act Amendments of 1990 it too must calculate its actual emission of regulated pollutants. Failure to provide, on a timely basis, any additional information requested shall be considered failure to pay the fees.

(Ord. No. 102, § 5, 3-30-92)

Sec. 14.5-31. Payment requirements.

If the emissions fees assessed to a stationary air pollution source are less than \$5,000, the emissions report and the fees owed shall be submitted by September 30 of the year following the year the emissions occurred. If more than \$5,000 is owed, then the emissions report and the amount due shall be submitted by January 31 of the year two years after the emissions occurred. (Ord. No. 102, § 6, 3-30-92)

Sec. 14.5-32. Small business waiver.

The director of the department, in his discretion but consistent with Section 507(f) of the Clean Air Act Amendments of 1990, may, upon written petition setting forth in detail the justification therefore, reduce or waive up to three years, any emissions fee required under this article to take into account the financial resources of small business stationary air pollution sources as defined under the federal act or regulations promulgated pursuant thereto. A decision to deny the waiver may be appealed to the local air pollution control board by the party requesting the waiver and will be heard under the same procedures as any other decision that is appealed to this board. If a waiver is granted, it will be reviewed by the board in its annual review process and is then subject to revocation or modification by the board if found to be unwarranted or granted in an arbitrary fashion. Such action will have no effect on prior years' emissions fees and will only apply to the collection of future emissions fees. (Ord. No. 102, § 7, 3-30-92)

Sec. 14.5-33. Exemption for units subject to Section 404 provisions of the Clean Air Amendments of 1990.

No fee will be charged until the year 2000 with respect to emissions from any unit which is classified as "an affected unit" under Section 404 of the Clean Air Act Amendments of 1990, entitled "Phase I Sulfur Dioxide Requirements." (Ord. No. 102, § 8, 3-30-92)

Sec. 14.5-34. Surplus funds carry forward.

Any surplus in emissions fee funds shall be carried forward from year to year for these stated purposes only. If, however, in any year after 1993 this carry forward surplus exceeds on

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		15	7-305(1)(d)
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		3	3-40(a)
		4	3-40(e)
		5(A)—(F)	Added 3-61—3-66
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		5(H)	Added 3-67
263	7-29-02		Ch. 7, Art. XI(footnote)
265	9- 9-02	10	14.5-27
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		3	App. B, § 105 H
278	12- 8-03	1	App. A, § 2
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279	1-26-04		App. A, § 26(FCD) D.1
281	2-23-04		12-28(b)(8)
284	6- 7-04		Ch. 7, Art. XI(note)
286	7-12-04	1	14.5-28(note)
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289	8-23-04		Added 9-293
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313	3-13-06	1	7-307(a)(2)
316	8-14-06	1—5	Added 28-116—28-130
318	12-18-06	1	14.5-37(note) 14.5-28(footnote)
320	2- 5-07		2-57(j)
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328	5-21-07	1	Added	12-113—12-122
330	6-25-07	Att. §§ 1— 13	Added	Ch. 12.5
332	7-23-07			28-76, 28-77, 28-82
339	8-27-07	Exh. A		20-74
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341	8-27-07	Exh. A		20-50
342	8-27-07	Exh. A		20-37
343	8-27-07		Added	2-11
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346	10- 8-07		Rpld	14-121—14-133
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